EO 13123 Renewable Power/REC Procurement Guidance
FINAL

3rd Party Verification – See separate Guidance.

Renewable Purchase Requirement Flexibility: Federal agencies are encouraged (but not required) to include purchase requirements that are in the public interest, will not adversely affect the renewable power market and that meet the stated goals of the May 2001 National Energy Policy (NEP), the EPA Green Power Partnership and Executive Order 13123:

- The NEP states, "A sound national energy policy should encourage a clean and diverse portfolio of domestic energy supplies. Such diversity helps to ensure that future generations of Americans will have access to the energy they need."

- The EPA Green Power Partnership, a program that was started in July 2001 by the EPA at the direction of the NEP, encourages and recognizes public and private sector organizations that buy green power products to cover a minimum designated portion of their electrical load.

- EO 13123, Section 101 states that "The Federal Government, as the Nation's largest energy consumer, shall…reduce emissions that contribute to air pollution and global climate change" and "The Federal Government can promote…the use of renewable energy products, and help foster markets for emerging technologies."

In addition, federal renewable power and renewable energy certificate (REC) purchase specifications should strive to reflect current renewable market conditions and definitions since they are purchased as a Commercial Item under Federal Acquisition Regulations (FAR) Part 12. Since the FAR provides discretion to federal agency acquisition officials, federal agencies have flexibility with their purchase specifications as long as all evaluation factors that will affect contract award and their relative importance are stated clearly in the solicitation.

EO 13123, Section 710 defines renewables as solar, wind, geothermal and biomass. These renewable resources are spread unevenly across the geographic United States and each resource can be tapped using a variety of technologies. The renewable power/REC market conditions also have geographic variations. As such, federal renewable power/REC purchases should help advance renewable power markets throughout the country and enhance national security by encouraging new and diverse domestic renewable generation development. Agencies are encouraged to make purchases that are eligible for the EPA Green Power Partnership (see http://www.epa.gov/greenpower/join/howmuch.htm for Partnership requirements) and to include renewable requirements that will help them meet their agency-specific needs and goals. Agencies can help foster markets for a portfolio of renewable energy technologies across the United States by including specifications that address the following areas:

Diverse Renewable Technologies: Agencies are encouraged to make REC/renewable power purchases from a diverse portfolio of renewable resources so as to advance the markets for all types of renewable resources and to meet various agency goals. Further, renewable resources have a wide range of air emissions, so agencies with specific environmental goals may want to limit the types of renewable resources allowed for their REC/renewable power purchase. For example, an agency may want to specify renewables with zero greenhouse gas emissions to comply with EO 13123 Section 404b ("Agencies shall consider the greenhouse gas intensity of the source of the electricity and strive to minimize the greenhouse gas intensity of purchased electricity") and to help them meet the EO13123 Section 201 greenhouse gas goal (30% reduction by 2010 compared to 1990 emissions levels). Or, an agency may want to specify biomass resources to assist with meeting the goals of EO 13134 Bio Based Products and Bioenergy (see http://www.epa.gov/fedsite/eo13134.htm).

Renewable Power/REC Purchases from New Renewable Resources: The intent of EO 13123 is to expand the use of new renewable resources, with a goal of tripling non-hydroelectric renewable energy capacity in the United States by 2010 (Section 404c2). Federal renewable purchases from new renewable projects can enhance national security through the development of new, domestic generation that does not require fuel imports. Federal on-site renewable projects installed after 1990 are eligible to count towards the 2005 federal renewables goal. However, since renewable power/RECs are purchased as a Commercial Item under FAR Part 12, agencies are encouraged (but not required) to purchase renewable power/RECs from renewable resources with an alternate definition of New of June 3, 1999; the date EO 13123 was signed. Note that renewable power/REC purchases from renewable generation facilities that began operation (or expanded their capacity) after 1990 will still count towards the 2005 federal renewables goal.

Geographic Flexibility for Renewable Power/REC Purchases: Agencies may (but are not required to) restrict the location of renewable resources used for their REC purchases. This provides flexibility to meet certain specific federal agency goals such as local economic benefit, local renewable resource development, local grid enhancement, desire for purchase within the agency site's region for education and other purposes, etc.

Some specific examples of conditions when a geographic restriction would be beneficial:

1) In states where eligibility for local renewable energy incentives require local resources.

2) Variable priced REC procurement where the reference market price index must be local to both buyer and seller.

Purchases from Renewables on Native American Land: Agencies are encouraged to purchase renewable power/RECs that come from renewable projects on Native American land. Such purchases may contribute to Small and Minority Business (8a) set-aside requirements and will support DOE's American Indian and Alaska Native Tribal Government Policy (see http://www.ci.doe.gov/indianbk.pdf).

Purchases from Other Small, Disadvantaged Businesses: Agencies are also encouraged to make renewable purchases from other small, disadvantaged businesses per procurement regulation set-asides for small businesses and minorities (Small Business Act P.L. 85-536, http://www.sba.gov/regulations/sbaact/sbaact.html)

Renewable and Environmental Attributes Ownership: The Renewable Energy Attributes issue that was covered in one category in the 2005 reporting guidance has been separated into two categories in this procurement guidance in order to respond to new market conditions. There is a new “Emissions Credits/Allowances and Environmental Attributes”[1] category that addresses emissions ownership since there are emerging opportunities for renewable generation plants to receive emissions allowances and these could be disaggregated and sold separately from RECs. These clarifications are to reflect current market conditions, but the general policy has not changed.

> **Renewable Energy Attributes:** Only the renewable energy certificates (RECs)/renewable energy from renewable on-site projects, facilitated projects or renewable purchases that are retained by the agency can be counted against the Renewable Energy Goal. That portion of renewable energy/RECs retained by the seller (including electric service providers who retain ownership of renewable energy attributes to meet renewable portfolio standards), or transferred or sold by the federal agency to a third party, cannot be counted toward the Federal Renewable Energy Goal. However, agencies may sell higher valued RECs from on-site renewable projects into the market (probably through a third party) and purchase an equal number of less expensive RECs from other locations and/or renewable resources. This “REC swap” option is designed to encourage innovative projects and to improve project cost effectiveness. The REC supplier may retire RECs on the federal government’s behalf in those states with REC tracking systems that allow RECs to be retired by the supplier on behalf of the purchaser.
>
> **Emission Credits/Allowances & Other Environmental Attributes:** Only those REC/renewable power purchases, renewable on-site projects or renewable facilitated projects that have retained all emissions credits/allowances and other environmental attributes can be counted against the Federal Renewable Energy Goal. The rights to all emissions allowances/credits that are directly attributable to the generating unit from which the RECS are based and to which the generator is entitled, shall be transferred to and retained by, the federal purchaser. This includes those emissions rights that may become available in the future. The renewable supplier may also retire the emissions allowances/credits on behalf of the federal agency buyer. Federal agencies shall be careful not to make misleading statements regarding emissions reductions.[2]

REC Vintage: RECs purchased for use in a given contract year must be generated during the contract year of the period of performance. They may also be generated six (6) months immediately preceding each contract year of the period of performance, or three (3) months immediately following each contract year of the period of performance.

---

[1] There are existing and emerging trading markets for emissions such as sulfur dioxide, nitrogen oxide (NOx) and carbon dioxide. Although most markets are geared towards pollutant sources (primarily utilities), there are opportunities for renewable energy projects in some markets. For example, some states now allow certain renewable energy (and energy efficiency) projects to apply for NOx allowances.

[2] Making clean air statements associated with renewable power purchases is problematic and very often inaccurate because some air emissions are regulated by cap and trade programs (nationwide for SOx and eastern U.S. during the summer for NOx). In a capped emission allowance market, no associated clean air statement can be made without a renewable energy generator being awarded an emission allowance and then retiring that allowance.